

SUPERANNUATION (AMENDMENT) ACT, 1985, No. 46

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

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Act No. 46, 1985.

An Act to amend the Superannuation Act, 1916, with respect to contributions and benefits payable under that Act, and in certain other respects. [Assented to, 30th April, 1985.]

Superannuation (Amendment) 1985

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Superannuation (Amendment) Act, 1985".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsections (1) and (3), the several provisions of this Act shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Schedule 12 (2) (a), and section 5 in its application to that provision, shall be deemed to have commenced on 9th July, 1979.

Principal Act.

3. The Superannuation Act, 1916, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE COMMUTATION OF PENSIONS.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PENSION PAYABLE ON EARLY VOLUNTARY RETIREMENT.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PRESERVATION OF BENEFITS.

SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO EMPLOYEES' CONTRIBUTIONS.

SCHEDULE 5.—AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO ABANDONED UNITS AND REDUCED VALUE UNITS.

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SCHEDULE 6.—AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO LEAVE WITHOUT PAY.

SCHEDULE 7.—AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PART-TIME EMPLOYMENT.

SCHEDULE 8.—AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO CHILDREN'S BENEFITS.

SCHEDULE 9.—AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO SPOUSES' BENEFITS.

SCHEDULE 10.—AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO INDEXATION OF UNIT ENTITLEMENTS.

SCHEDULE 11.—AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO POWERS OF INVESTMENT.

SCHEDULE 12.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 13.—AMENDMENTS TO THE PRINCIPAL ACT FOR TRANSITIONAL AND OTHER PURPOSES.

Amendment of Act No. 28, 1916.

5. The Principal Act is amended in the manner set forth in Schedules 1-13.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE COMMUTATION OF PENSIONS.

(1) Section 9c (8)—

Before "commuted" where firstly occurring, insert "partly".

(2) Section 17cB—

After section 17cA, insert:—

Payments by employers where whole of pension commuted.

17cB. (1) Where the whole of any pension payable under this Act to a pensioner or to the widow of a deceased contributor or

*Superannuation (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE
COMMUTATION OF PENSIONS—*continued.*

pensioner is commuted under section 21C (whether by the commutation of only one amount or otherwise), the employer in whose service the pensioner or deceased pensioner was employed at the date of retirement or in whose service the deceased contributor was employed at the date of death, shall, in accordance with directions given by the Board, pay to the Fund, in respect of the pension commuted or, as the case may be, in respect of each amount of pension commuted, an amount calculated in accordance with the following formula:—

$$PE = a \times CF + (b \times CF)(1 - pp)$$

where—

- PE is the amount to be paid;
- a is the amount which would have been payable by the employer in respect of one fortnightly payment of the pension or, as the case may be, so much of the pension as is commuted, if the pension were not commuted;
- CF is the prescribed commutation factor in relation to the pensioner or widow upon the commutation (within the meaning of section 21C (9));
- b is the amount (if any) of one fortnightly payment of so much of the pension or amount commuted as is attributable to the operation of Division 6 of Part IV;
- pp is the prescribed percentage as defined in section 9E (1).

(2) Where the whole of any pension payable under this Act to the widower of a deceased contributor or pensioner or to, or as a consequence of the death of, a person referred to in section 52A (1) is commuted under section 21C (whether by the commutation of only one amount or otherwise), the employer in whose service the deceased pensioner was employed at the date of retirement, the deceased contributor was employed at the date of death or the person was employed at the date of the person's retrenchment, resignation, dismissal or discharge, shall, in accordance with directions given by the Board, pay to the Fund the full amount of the lump sum payable upon the commutation.

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE
COMMUTATION OF PENSIONS—*continued.*

(3) Section 21A (12), (13)—

After section 21A (11), insert:—

(12) This section does not apply to or in respect of a pension to which a person becomes entitled on or after the commencement of Schedule 1 (4) to the Superannuation (Amendment) Act, 1985.

(13) An election made under this section in respect of a pension referred to in subsection (12) shall be deemed to be revoked.

(4) Sections 21C, 21D—

After section 21B, insert:—

Commuting of pension emerging after Superannuation (Amendment) Act, 1985.

21C. (1) Subject to this section, a person who becomes entitled to a pension under this Act on or after the commencement of Schedule 1 (4) to the Superannuation (Amendment) Act, 1985, may commute the whole or part of that pension.

(2) A person may not commute the whole or any part of a pension under subsection (1)—

(a) except as provided by paragraph (b), before attaining the age of 55 years; or

(b) in the case of a pension payable under section 29, before attaining the age of 60 years.

(3) This section does not authorise the commutation of a pension payable in respect of children.

(4) Subject to section 21D, any person desiring to commute pension pursuant to this section may elect to do so—

(a) except as provided by paragraph (b), at any time after attaining the age of 54 years and 6 months; or

(b) in the case of a pension payable under section 29, at any time after attaining the age of 59 years and 6 months.

(5) An election under this section may be made in respect of 2 different amounts and as from 2 different dates and the election shall

*Superannuation (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE
COMMUTATION OF PENSIONS—*continued.*

have effect as to the different amounts as from the respective dates from which the different amounts are commuted.

(6) Where—

- (a) a person making an election under this section in respect of one amount dies before the election takes effect, the election shall be deemed to be revoked; and
- (b) a person making an election under this section in respect of different amounts as from different dates dies before the commutation as to one or both of those amounts takes effect, the commutation as to that or those amounts, as the case may be, shall not be effective.

(7) Where an election under this section takes effect and the person who made the election dies before any lump sum payable pursuant to the election has been paid to the person, the Board shall pay the lump sum to the person's personal representatives.

(8) Upon an election under this section taking effect as to an amount of pension, there shall be paid from the Fund to the person who made the election or, as the case may require, to the personal representatives of the person, a lump sum calculated by multiplying the fortnightly amount of pension commuted by the prescribed commutation factor in relation to the person.

(9) In subsection (8)—

“prescribed commutation factor” means—

- (a) in relation to a person whose election under this section took effect as to an amount of pension before the person attained the age of 60 years, the figure (rounded to 2 decimal places) calculated in accordance with the following formula:—

$$F = 285 - (A - 55) \times 7$$

where—

F is the prescribed commutation factor;

*Superannuation (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE
COMMUTATION OF PENSIONS—*continued.*

- A is the age of the person in years (including any fractional part of a year calculated on a daily basis) on the date the election by the person to commute took effect as to that amount of pension; and
- (b) in relation to a person whose election under this section took effect as to an amount of pension on or after the person attained the age of 60 years—
- (i) 250, where no prescribed period has elapsed in relation to the person; or
 - (ii) where a prescribed period has elapsed in relation to the person, a figure lower than 250 determined by the Board having regard to the length of the prescribed period;
- “prescribed period”, in relation to a person whose election under this section took effect as to an amount of pension on or after the person attained the age of 60 years, means—
- (a) in the case of such a person who became entitled to the amount of pension to which the election relates on or before attaining the age of 65 years—the period (if any) between—
 - (i) the attainment by the person of the age of 60 years or the day on which the person became entitled to that amount of pension, whichever was the later; and
 - (ii) the day on which the election took effect as to that amount of pension; or
 - (b) in the case of such a person who became entitled to the amount of pension to which the election relates after attaining the age of 65 years—the period (if any) between—
 - (i) the attainment by the person of the age of 65 years; and
 - (ii) the day on which the election took effect as to that amount of pension.

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE
COMMUTATION OF PENSIONS—*continued.*

(10) The liability of an employer to make payments to the Fund in respect of any amounts of pension commuted to lump sum in accordance with this section shall not, unless section 17CB applies by reason of the whole of that pension being commuted, be affected by the payment from the Fund of the lump sum specified in subsection (8) and the employer shall continue to make payments in respect of the amounts of pension so commuted as if those amounts of pension were paid in accordance with this Act.

(11) Subject to section 21D, a person may, with the approval of the Board, make more than one election under this section, but only one such election shall take effect.

(12) Where a person makes an election under section 23BA to take up additional units, nothing in subsection (11) applies to an election made under this section in respect only of any of the pension payable in respect of those additional units, but—

- (a) a person may not, without the approval of the Board, make more than one such election under this section in respect of that pension; and
- (b) only one such election made by the person under this section in respect of that pension shall take effect.

(13) Subsections (11) and (12) apply to and in respect of an election under this section whether or not the election has been amended or revoked.

(14) The approval of the Board may only be given for the purposes of subsection (11) or (12) in special circumstances.

(15) An election made under this section by an employee before the day on which the employee attained the age of 55 years shall be deemed to be revoked if the employee has not retired before the expiration of 12 months after attaining that age.

(16) An election made under this section by an employee on or after the day on which the employee attained the age of 55 years

*Superannuation (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE
COMMUTATION OF PENSIONS—*continued.*

shall be deemed to be revoked if the employee has not retired before the expiration of 12 months after making the election.

(17) This Act applies to and in respect of a person who is entitled to a pension and who commutes the whole of that pension in accordance with this section in the same way as it applies to and in respect of a pensioner under this Act.

(18) On the death of a person who has, pursuant to this section, commuted the whole or part of any pension payable to the person, the pension payable to the widow or widower of the person pursuant to the provisions of this Act shall be determined in accordance with the pension that would have been payable to the person at the time of death had the person not so commuted that pension.

Limitations on elections under section 21c.

21D. (1) Subject to this section, a person may not make an election under section 21C relating to a pension under this Act after the expiration of 6 months after—

(a) except as provided by paragraph (b)—

- (i) the day on which the person attained the age of 55 years; or
- (ii) the day on which the person became entitled to that pension.

whichever is the later day; or

(b) in the case of a pension payable under section 29—

- (i) the day on which the person attained the age of 60 years; or
- (ii) the day on which the person became entitled to that pension.

whichever is the later day.

(2) Subject to this section, where a person makes an election under section 23BA to take up additional units, the person may not make

*Superannuation (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE
COMMUTATION OF PENSIONS—*continued.*

an election under section 21C in respect only of the pension payable in respect of those additional units after the expiration of 6 months after—

- (a) except as provided by paragraph (b)—
 - (i) the day on which the person attained the age of 55 years; or
 - (ii) the day on which the person made the election under section 23BA,

whichever is the later day; or

- (b) in the case of a pension payable under section 29—
 - (i) the day on which the person attained the age of 60 years; or
 - (ii) the day on which the person made the election under section 23BA,

whichever is the later day.

(3) Where—

- (a) an election under section 21C was not made within the time prescribed in respect thereof by the provisions of subsections (1) and (2);
- (b) it is proved to the satisfaction of the Board that the election was not made within that time because—
 - (i) the person entitled to make the election did not know of the right to make the election; or
 - (ii) circumstances substantially beyond the control of the person prevented the making of the election; and
- (c) the Board is satisfied that, in the circumstances of the case, it is desirable that the election should be accepted,

the Board may, subject to such terms and conditions as it may impose, accept the election and deal with it as if that time had been indefinitely extended.

*Superannuation (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE
COMMUTATION OF PENSIONS—*continued.*

(4) Where—

- (a) a person has not made an election under section 21c in relation to an amount of pension payable to the person;
- (b) the person has attained the age of 60 years; and
- (c) the amount of pension became payable to the person before the person attained the age of 60 years,

the person may make an election under that section in relation to that amount of pension within the period of 6 months after the day on which the person attained the age of 60 years.

(5) Section 61B (1), definition of “pension”—

From paragraph (b), omit “or 21B”, insert instead “, 21B or 21C”.

(6) (a) Section 91 (1) (c)—

Omit “or section 21B”, insert instead “, 21B or 21C”.

(b) Section 91 (3), (4)—

Omit “or 21B” wherever occurring, insert instead “, 21B or 21C”.

(c) Section 91 (5), (6)—

After section 91 (4), insert:—

(5) Where an election to commute pension is made under section 21c by a contributor or pensioner who retired under section 21 (1B), being a contributor or pensioner who has not attained the maturity age, the date or dates determined by the Board under subsection (1) (c) as the date or dates as from which the election is to take effect shall not be earlier than—

- (a) the expiration of 6 months after the day the election was made; or
- (b) the date on which the contributor or pensioner attains the maturity age.

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO THE
COMMUTATION OF PENSIONS—*continued.*

whichever first occurs.

(6) Where an election to commute pension payable under section 29 is made under section 21c by a pensioner, the date or dates determined by the Board under subsection (1) (c) as the date or dates as from which the election is to take effect shall not be earlier than—

- (a) the expiration of 6 months after the day the election was made; or
- (b) where any employment which, on the pensioner's ceasing to be a contributor, the pensioner was entitled to count as service for the purposes of section 21 was, in total, for less than a period of 10 years—the expiration of such time after the pensioner ceased to be a contributor as is equivalent to the balance of that period,

whichever first occurs.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PENSION PAYABLE
ON EARLY VOLUNTARY RETIREMENT.

(1) Section 9c (1), definition of “additional commitment”—

Omit the definition, insert instead:—

“additional commitment” means—

(a) in relation to a financial year ending before the commencement of Schedule 2 (6) to the Superannuation (Amendment) Act, 1985—an amount equal to the difference between—

- (i) the total of the additional amounts of pension (including additional amounts of widow's

*Superannuation (Amendment) 1985*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PENSION PAYABLE
ON EARLY VOLUNTARY RETIREMENT—*continued.*

pension) paid or payable during that financial year that are attributable to the operation of section 28B; and

(ii) the total amount paid or payable by employers in respect of that financial year pursuant to section 28B (5); and

(b) in relation to any subsequent financial year—an amount equal to the difference between—

(i) the total of the additional amounts of pension (including additional amounts of widow's pension) paid or payable during that financial year that are attributable to the operation of sections 28AA and 28B; and

(ii) the total amount paid or payable by employers in respect of that financial year pursuant to section 28AA (9) or 28B (5).

(2) Section 10R (4) (a)—

After "Act", insert "(other than a pension under section 28AA)".

(3) Section 10AH (2) (b)—

Omit "on a pension calculated in accordance with section 28A", insert instead "under section 21 (1B)".

(4) Section 21 (1B)—

Omit "on the pension provided by section 28A", insert instead "on pension".

(5) Section 28A (1)—

After "section 21", insert "(being a contributor who retired before the commencement of Schedule 2 (6) to the Superannuation (Amendment) Act, 1985, or being a contributor referred to in section 28AA (2))".

*Superannuation (Amendment) 1985*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PENSION PAYABLE
ON EARLY VOLUNTARY RETIREMENT—*continued.*

(6) Section 28AA—

Before section 28B, insert:—

Pension on retirement before age 60—component pension.

28AA. (1) On the retirement of a contributor under section 21 (1B) on or after the commencement of Schedule 2 (6) to the Superannuation (Amendment) Act, 1985, except as provided by subsection (2), the pension to which the contributor is entitled is a pension under this section.

(2) A contributor is entitled to the pension under section 28A and not the pension under this section if the sum of—

- (a) the amount which would be payable to the contributor on the commutation of the whole of the pension payable to the contributor under section 28A; and
- (b) the amount of any lump sum which would be payable to the contributor under section 28A (2),

is greater than the amount which would be payable to the contributor on the commutation of the whole of the pension payable to the contributor under this section.

(3) The pension to which a contributor is entitled under this section is a pension of an amount per fortnight equivalent to the sum of the employee-contributed pension component, and the employer-financed pension component, in relation to the contributor.

(4) For the purposes of subsection (3), the employee-contributed pension component, in relation to a contributor, shall be calculated in accordance with the following formula:—

$$P1 = 2.20 \times EPU \times (1 - .07 \times TM)$$

where—

P1 is the employee-contributed pension component;

EPU is the sum of the following:—

- (a) $UHn - \frac{Cn}{Rn}$ (except where $\frac{Cn}{Rn}$ exceeds UHn);

*Superannuation (Amendment) 1985*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PENSION PAYABLE
ON EARLY VOLUNTARY RETIREMENT—*continued.*(b) $\frac{\text{TCB}}{\text{RB}}$;

(c) UC;

UHn is the number of units of pension for which contributions were payable by the contributor on the contributor's exit day in accordance with the tables of contributions fixed by or under this Act, but excluding—

- (a) any such units of pension which are excess units of pension referred to in section 10w (1) and in respect of which no person has any rights in the Fund; and
- (b) any such units of pension, being reserve units, for which contributions were being made under section 15A;

Cn is the amount of contributions due for the last contribution period for which contributions were payable by the contributor before the contributor's exit day, in respect of that number of units of pension;

Rn is the amount which, if the contributor were required under Division 5 of Part III to commence to contribute for an additional unit of pension on the contributor's exit day, would be the amount payable in accordance with the tables of contributions fixed under section 10AD for that unit for a contribution period;

TCB is the total amount paid in respect of instalments payable by the contributor on or before the contributor's exit day for units of pension for which the contributor contributed in accordance with Division 6 of Part III (but deducting therefrom any part of that amount allocated under this Act to the purchase of fully paid up units);

RB is the amount specified in section 10AG (1) as the cost of a unit of pension in relation to the contributor;

UC is the number of units (if any) purchased by the contributor and credited to the contributor as fully paid up units under section 20c or otherwise;

TM is the number of years, if any, (including any fractional part

*Superannuation (Amendment) 1985*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PENSION PAYABLE ON EARLY VOLUNTARY RETIREMENT—*continued.*

of a year calculated on a daily basis) by which the day from which the pension under this section commences to be payable precedes the date on which the contributor attains the age of 60 years.

(5) For the purposes of subsection (3), the employer-financed pension component, in relation to a contributor, shall be calculated in accordance with the following formula:—

$$P2 = 3.30 \times UE \times \frac{S}{S + TM} \times (1 - .04 \times TM)$$

where—

P2 is the employer-financed pension component;

UE is the number of units of pension that, pursuant to section 12 (1), is appropriate to the salary payable to the contributor on the contributor's exit day plus, in a case to which section 10w applies, the number of any excess units of pension referred to in section 10w (1) and in respect of which the Board considers, in accordance with section 10w (5), that the retention of entitlement to benefits under this Act is warranted;

S is the number of years (including any fractional part of a year calculated on a daily basis) of continuous contributory service by the contributor with any one or more employers;

TM is the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which the day from which the pension under this section commences to be payable precedes the date on which the contributor attains the age of 60 years.

(6) For the purposes of subsection (5), the period of continuous contributory service by a person on the person's exit day is the period that commenced when the person last became a contributor and ended on that day (but excluding any part of that period during which the person had been on leave of absence pursuant to section 48).

*Superannuation (Amendment) 1985*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PENSION PAYABLE
ON EARLY VOLUNTARY RETIREMENT—*continued.*

(7) Pension payable under this section shall, notwithstanding anything contained in this or any other Act, commence and be payable as from the date following that upon which all leave of absence other than extended leave, if taken, would have terminated.

(8) Contributions payable by and in respect of a contributor whose pension is payable under this section shall cease to be paid—

(a) where the pension becomes payable before the commencement of Schedule 9 to the Superannuation (Amendment) Act, 1983—on the first day of the month or four-weekly contribution period, as the case may be, in which the pension commences to be payable in accordance with subsection (7); or

(b) where the pension becomes payable on or after the commencement of that Schedule—on the first day of the contribution period preceding that in which the pension commences to be payable in accordance with subsection (7).

(9) Where a pension is payable to a person under this section or the pension of a widow is calculated by reference to a pension that would have been, or was, so payable, the liability of an employer to make payments to the Fund (otherwise than pursuant to section 9A, 9B or 9C) in respect of that pension is increased in the same proportion as the proportion (if any) by which that pension is greater than the pension—

(a) that would have been payable to that person; or

(b) that would have been calculated by reference to a pension that would have been, or was, so payable,

if section 28A had not been amended by the Superannuation (Amendment) Act, 1985, and this section had not been enacted.

(7) Section 47C (1A)—

After section 47C (1), insert:—

(1A) This section does not apply to a person who is entitled to a pension under section 28AA.

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SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PRESERVATION OF
BENEFITS.

(1) (a) Section 3 (11)—

Omit “or 31”, insert instead “, 31 or 52F”.

(b) Section 3 (12)—

After “section 43A”, insert “or 52H”.

(2) Section 17CA (2)—

After “Act” where firstly occurring, insert “(except section 52J)”.

(3) (a) Section 38B (1) (a), (b)—

After “or 38A” wherever occurring, insert “or, subject to subsection (4), Division 3A”.

(b) Section 38B (3)—

After “38A” where secondly occurring, insert “. or apply the provisions of Division 3A”.

(c) Section 38B (4), (5)—

After section 38B (3), insert:—

(4) A person who is retrenched or resigns or is dismissed or discharged from the service of an employer may not elect under this section to take the benefit of Division 3A unless the person has completed 3 years' continuous contributory service.

(5) For the purposes of subsection (4), the period of continuous contributory service by a person on the person's exit day is the period that commenced when the person last became a contributor and ended on that day (but excluding any part of that period during which the person had been on leave of absence pursuant to section 48).

*Superannuation (Amendment) 1985*SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PRESERVATION OF
BENEFITS—*continued.*

(4) Section 38C (9), (10)—

After section 38C (8), insert:—

(9) A person who ceases to be an employee and elects under section 38B to take the benefit of Division 3A may not, upon entering the service of an employer within the next succeeding period of 3 months, make an election under this section if, during that period, the person received any benefit under that Division.

(10) Where a person who is deemed under subsection (11) not to have ceased to be an employee had, upon ceasing to be an employee, elected under section 38B to take the benefit of Division 3A—

- (a) the person shall be deemed not to have elected to take the benefit of Division 3A; and
- (b) no person has any rights in the Fund in relation to the employee-contributed pension component, or the employer-financed pension component, calculated in relation to the person.

(5) Section 47C (1B)—

Before section 47C (2), insert:—

(1B) This section does not apply to a person who is entitled to a pension under Division 3A.

(6) Part IV, Division 3A—

After Division 3, insert:—

DIVISION 3A.—*Preserved benefits.***Calculation of preserved pension components.**

52A. (1) Where a person who is retrenched or resigns or is dismissed or discharged from the service of an employer elects to take the benefit of this Division, there shall be calculated, as at the person's exit day, the employee-contributed pension component, and the employer-financed pension component, in relation to the person.

*Superannuation (Amendment) 1985*SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PRESERVATION OF BENEFITS—*continued.*

(2) For the purposes of subsection (1), the employee-contributed pension component in relation to a person shall be calculated in accordance with the following formula:—

$$P1 = 2.20 \times EPU$$

where—

P1 is the employee-contributed pension component;

EPU is the sum of the following:—

(a) $UH_n - \frac{C_n}{R_n}$ (except where $\frac{C_n}{R_n}$ exceeds UH_n);

(b) $\frac{TCB}{RB}$;

(c) UC;

UH_n is the number of units of pension for which contributions were payable by the person on the person's exit day in accordance with the tables of contributions fixed by or under this Act, but excluding—

(a) any such units of pension which are excess units of pension referred to in section 10w (1) and in respect of which no person has any rights in the Fund; and

(b) any such units of pension, being reserve units, for which contributions were being made under section 15A;

C_n is the amount of contributions due for the last contribution period for which contributions were payable by the person before the person's exit day, in respect of that number of units of pension;

R_n is the relevant amount under subsection (4) in relation to the person for an additional unit of pension on the person's exit day;

TCB is the total amount paid in respect of instalments payable by the person on or before the person's exit day for units of

*Superannuation (Amendment) 1985*SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PRESERVATION OF BENEFITS—*continued.*

pension for which the person contributed in accordance with Division 6 of Part III (but deducting therefrom any part of that amount allocated under this Act to the purchase of fully paid up units);

RB is the amount specified in section 10AG (1) as the cost of a unit of pension in relation to the person;

UC is the number of units (if any) purchased by the person and credited to the person as fully paid up units under section 20c or otherwise.

(3) For the purposes of subsection (1), the employer-financed pension component in relation to a person shall be calculated in accordance with the following formula:—

$$P2 = 3.30 \times UE \times \frac{S}{S + T}$$

where—

P2 is the employer-financed pension component;

UE is the number of units of pension that, pursuant to section 12 (1), is appropriate to the salary payable to the person on the person's exit day plus, in a case to which section 10w applies, the number of any excess units of pension referred to in section 10w (1) and in respect of which the Board considers, in accordance with section 10w (5), that the retention of entitlement to benefits under this Act is warranted;

S is the number of years (including any fractional part of a year calculated on a daily basis) of continuous contributory service by the person with any one or more employers;

T is the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which the person's exit day precedes—

- (a) the date on which the person attains the maturity age;
- or
- (b) where any employment which, on the person's exit day, the person is entitled to count as service for the purposes of section 21 is, in total, for less than a

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period of 10 years—the expiration of the balance of that period of 10 years,

whichever is the later.

(4) For the purposes of subsection (2), the relevant amount in relation to a person for an additional unit of pension on the person's exit day is—

(a) where the person has attained the prescribed age on or before that day, the amount which, if the person were required under Division 5 of Part III to commence to contribute for an additional unit of pension on that day, would be the amount payable in accordance with the tables of contributions fixed under section 10AD for that unit for a contribution period; or

(b) where the person has not attained the prescribed age on or before that day, the amount equal to the sum of—

(i) the amount payable by the person for any additional unit of pension for which the person had been required to commence contributing on and from the person's last annual adjustment day for a contribution period or, as the case may be, the amount that would have been so payable if the person had been so required; and

(ii) for each day of the period commencing on the day following that annual adjustment day and ending on the person's exit day, the amount equal to $\frac{1}{364\text{th}}$ part of the difference between the amount referred to in subparagraph (i) and the amount which that amount would have been if, on the last annual review day of the person before the person's exit day, the person had been 1 year older than the age actually attained.

(5) For the purposes of subsection (3), the period of continuous contributory service by a person on the person's exit day is the

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period that commenced when the person last became a contributor and ended on that day (but excluding any part of that period during which the person had been on leave of absence pursuant to section 48).

Adjustment of pension components.

52B. (1) Expressions used in this section have the same meanings as they have in Division 6.

(2) Where—

- (a) the employer-financed pension component in relation to a person is calculated under this Division as at the person's exit day;
- (b) pensions are adjusted under Division 6 by a percentage for a year commencing after the exit day; and
- (c) no benefit became payable under this Division during that year to, or by virtue of the death of, the person,

the component, as so calculated and as previously adjusted under this section, is, as from the adjustment date for that year, adjusted by that percentage.

(3) Where—

- (a) the employer-financed pension component in relation to a person is calculated under this Division as at the person's exit day;
- (b) pensions are adjusted under Division 6 by a percentage for a year commencing on or before the exit day and ending after the exit day; and
- (c) no benefit became payable under this Division during that year to, or by virtue of the death of, the person,

the component, as so calculated, is, as from the adjustment date for that year, adjusted by the percentage calculated in accordance with the following formula:—

$$A = P \times \frac{Q}{4}$$

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where—

A is the percentage by which the component is to be adjusted;

P is the percentage for the year by which pensions are adjusted;

Q is the number of whole quarters of the year, being the whole quarters after the exit day.

(4) Where a pension is payable under this Division to a person referred to in section 52A (1) or to the widow or widower of that person or the pension of a widow or widower is calculated by reference to a pension which was payable under this Division and pensions are adjusted under Division 6 by a percentage for a year commencing before the date on which the pension under this Division became payable and ending on or after that date, the pension is, as from the adjustment date for that year, in addition to any adjustment of the pension under Division 6, adjusted by the amount calculated in accordance with the following formula:—

$$A = C_2 \times P \times \frac{Q}{4}$$

where—

A is the amount by which the pension is adjusted;

C₂ is—

- (a) in the case of a pension payable under section 52C or 52E to a person—the amount of the employer-financed pension component calculated in relation to the person and as adjusted by the operation (if any) of this section before the pension became payable;
- (b) in the case of a pension payable under section 52D to a person—the amount obtained in relation to the

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person from the calculation, under that section, of the formula $P2 (1 - .04 \times TM)$;

- (c) in the case of a pension payable under this Division to the widow or widower of a person referred to in section 52A (1)—an amount equal to two-thirds of the amount of the employer-financed pension component calculated in relation to the person and as adjusted by the operation (if any) of this section before the pension became payable; or
- (d) in the case of a pension of a widow or widower which is calculated by reference to a pension which was payable to a person under this Division—an amount equal to two-thirds of the amount referred to in paragraph (a) or (b), as the case may be, in relation to the person;

P is the percentage for the year by which pensions are adjusted;

Q is the number of whole quarters of the year, being the whole quarters before the day as at which the pension became payable.

Pensions at retirement age.

52c. (1) A person referred to in section 52A (1) who has not received any other benefit under this Division and who applies to the Board to receive a pension under this section is entitled to receive that pension—

- (a) on the person's attaining the maturity age;
- (b) where any employment which, on the person's ceasing to be a contributor, the person was entitled to count as service for the purposes of section 21 was, in total, for less than a period of 10 years—on the expiration of such time after the person ceased to be a contributor as is equivalent to the balance of that period; or

(c) on receipt by the Board of the application,
whichever is the latest.

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(2) The pension which a person is entitled to receive under this section is a pension of an amount per fortnight equivalent to the sum of—

- (a) the employee-contributed pension component calculated in relation to the person; and
- (b) the employer-financed pension component calculated in relation to the person and as adjusted by the operation (if any) of section 52B.

(3) This Act applies to and in respect of a person who is entitled to a pension under this section in the same way as it applies to and in respect of a contributor who is entitled to a pension under section 27 and so applies as if the pension payable under this section were a pension payable under that section.

Pensions at early retirement age.

52D. (1) A person referred to in section 52A (1) who has not received any other benefit under this Division and who applies to the Board to receive a pension under this section is entitled to receive that pension—

- (a) on the person's attaining the age of 55 years;
- (b) on the expiration of the period of 10 years after the person last became a contributor; or
- (c) on receipt by the Board of the application.

whichever is the latest.

(2) The pension which a person is entitled to receive under this section is a pension of an amount per fortnight calculated in accordance with the following formula:—

$$TP = P1 (1 - .07 \times TM) + P2 (1 - .04 \times TM)$$

where—

TP is the amount of the pension;

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P1 is the employee-contributed pension component calculated in relation to the person;

P2 is the employer-financed pension component calculated in relation to the person and as adjusted by the operation (if any) of section 52B;

TM is the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which the day from which the pension commences to be payable precedes the date on which the person attains the age of 60 years.

(3) This Act applies to and in respect of a person who is entitled to a pension under this section in the same way as it applies to and in respect of a contributor who is entitled to a pension under section 28A and so applies as if the pension payable under this section were a pension payable under that section.

Disability pension.

52E. (1) A person referred to in section 52A (1) who has not received any other benefit under this Division and who applies to the Board to receive a pension under this section is entitled to receive that pension—

(a) on receipt by the Board of the application; or

(b) on the Board's being satisfied, after taking into account any medical opinion that it considers to be relevant, that the person is physically or mentally incapable of performing the duties of any employment that, in the opinion of the Board, it would be reasonable for the person to undertake,

whichever is the later.

(2) The pension which a person is entitled to receive under this section is a pension of an amount per fortnight equivalent to the sum of—

(a) the employee-contributed pension component calculated in relation to the person; and

(b) the employer-financed pension component calculated in

*Superannuation (Amendment) 1985*SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PRESERVATION OF
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relation to the person and as adjusted by the operation (if any) of section 52B.

(3) A person to whom this section applies shall be granted payment of pension only for such period at a time as the Board determines and a fresh application shall, unless the Board from time to time otherwise determines, be necessary before any further payment is made.

(4) The period determined by the Board as referred to in subsection (3) for the payment of pension to a person—

(a) if the person has not attained the maturity age, shall be such period (not exceeding 5 years) as the Board thinks fit, having regard to the state of health of the person; and

(b) if the person has attained the maturity age—may be for the remainder of the person's life.

(5) A person receiving a pension under this section shall submit to a medical examination as and when required by the Board and, if the person defaults in complying with any such requirement, pension shall cease to be payable to the person during the default.

(6) A pension payable under this section shall cease to be payable to a person on the Board's ceasing to be satisfied as referred to in subsection (1) (b) in relation to the person.

(7) Where a pension under this section ceases to be payable to a person, the person shall, for the purposes of this Division, be deemed not to have received a benefit under this Division.

(8) Except as provided by this section, this Act applies to and in respect of a person who is entitled to a pension under this section in the same way as it applies to and in respect of a person entitled to a pension under section 29 and so applies as if the pension payable under this section were a pension payable under that section.

Pensions for widows, etc.

52F. (1) Where a person referred to in section 52A (1) who has not received a benefit under this Division dies, the widow or

*Superannuation (Amendment) 1985*SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PRESERVATION OF
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widower of the person is entitled to receive a pension under this section on receipt by the Board of an application by the widow or widower for that pension.

(2) The pension which a widow or widower of a person is entitled to receive under this section is a pension at the rate of two-thirds of the pension that would have been payable to the person had the person been entitled to pension under section 52E immediately before dying.

(3) This Act applies to and in respect of a widow or widower who is entitled to receive a pension under this section in the same way as it applies to and in respect of a widow or widower of a contributor, being a widow or widower to whom pension is payable under this Act, and so applies as if the pension payable under this section were a pension payable under section 30 by virtue of the death of a contributor.

Children's pensions.

52G. (1) Where a person referred to in section 52A (1) who has not received a benefit under this Division dies, a pension of the appropriate amount per fortnight under section 61M is payable in respect of—

- (a) each child of the person; and
- (b) each child of the person's surviving spouse, except a child who is born after the person's death and who is not the person's child.

not being a child in respect of whom a pension is payable under subsection (3) or (4), on receipt by the Board of an application for that pension.

(2) A pension under subsection (1) ceases to be payable in respect of a child if the surviving parent dies, but continues to be payable notwithstanding that the surviving parent marries or remarries.

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(3) Where a person referred to in section 52A (1) who has not received a benefit under this Division dies, a pension of the appropriate amount per fortnight under section 61N is payable—

(a) if the person was a man—in respect of—

(i) each child of the person; and

(ii) each child of any former wife of the person, except a child who is born after the divorce of the wife from the person and who is not the person's child,

being in each case a child whose mother died before, or is divorced from, the person; and

(b) if the person was a woman—in respect of—

(i) each child of the person; and

(ii) each child of any former husband of the person, except a child who is born after the divorce of the husband from the person and who is not the person's child,

being in each case a child whose father died before, or is divorced from, the person,

on receipt by the Board of an application for that pension.

(4) Where a pension ceases to be payable under subsection (1) in respect of a child because the surviving parent dies, a pension of the appropriate amount per fortnight under section 61N is payable in respect of the child.

(5) This Act applies to and in respect of a child in respect of whom a pension is payable under this section in the same way as it applies to and in respect of a child in respect of whom a pension is payable under Division 2, and so applies as if the pension payable under this section were a pension payable under Division 2 by virtue of the death of a contributor.

*Superannuation (Amendment) 1985*SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PRESERVATION OF
BENEFITS—*continued.***Students' pensions.**

52H. (1) In this section, "student" has the same meaning as it has in section 43A.

(2) Where a person referred to in section 52A (1) who has not received a benefit under this Division dies, a pension under this section—

- (a) is payable in respect of a student if a pension would be payable in respect of the student were the person a contributor and the student under the age of 18 years, on receipt by the Board of an application for that pension; and
- (b) is payable to such persons as the Board determines a pension would have been payable were the student under the age of 18 years or shall be expended by the Board towards the support or education of the student.

(3) The amount of pension payable under this section shall be—

- (a) in the case of a student in respect of whom the pension referred to in subsection (2) (a) is a pension payable under section 33—the appropriate amount per fortnight under section 61N; or
- (b) in any other case—the appropriate amount per fortnight under section 61M.

(4) For the purposes of section 43A (1), (5), (6) and (7), a pension payable under this section shall be deemed to be a pension payable under section 43A.

(5) This Act applies to and in respect of a student in respect of whom a pension is payable under this section in the same way as it applies to and in respect of a student in respect of whom a pension is payable under section 43A, and so applies as if the pension payable under this section were a pension payable under that section by virtue of the death of a contributor.

Cash termination benefit.

52I. (1) A person referred to in section 52A (1) who has not received any other benefit under this Division may, at any time, apply to the Board for a cash termination benefit under this section.

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(2) On receipt by the Board of an application made by a person in accordance with subsection (1), there shall be payable to the person—

- (a) if the person was retrenched from the service of an employer, the lump sum payment which would have been payable to the person if, upon that retrenchment, the person had elected under section 38B to take the benefit of section 37 and chose the lump sum payment available under that section; or
- (b) if the person resigned or was dismissed or discharged from the service of an employer, the amount which would have been payable to the person if, upon that resignation, dismissal or discharge, the person had elected under section 38B to take the benefit of section 38A,

plus, if the application is made more than 3 months after the retrenchment, resignation, dismissal or discharge, interest on that amount in respect of the period commencing on the retrenchment, resignation, dismissal or discharge and ending on the date of payment, compounded on 30th June in each year and at the prescribed rate for the purposes of section 38A.

(3) An application made in accordance with subsection (1) shall be deemed to be revoked if the person dies before payment of the cash termination benefit applied for, leaving a widow or widower to whom, but for the payment of that benefit, a pension would, on application, be payable under this Act.

(4) Where a person referred to in section 52A (1) dies without having received a benefit under this Division and without leaving a widow or widower (or leaving a widow or widower who dies without having received a benefit under this Division), the person shall, unless the person leaves a child or children in respect of whom pension is payable under this Act or would, but for this section, be so payable, if application is made to the Board for a benefit under this section, be deemed to have applied for a cash termination benefit under subsection (1) immediately before death, and the money payable under subsection (2) shall be paid by the Board to the person's personal representatives or, where the person has no

*Superannuation (Amendment) 1985*SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PRESERVATION OF
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personal representatives, to such persons as the Board may determine.

(5) Where a person referred to in section 52A (1) dies without having received a benefit under this Division leaving a child or children in respect of whom pension is, on application, payable under this Act or would, but for this section, be so payable, the Board may, on receipt by it of an application for a benefit under this section or section 52G—

- (a) pay the cash termination benefit under this section as if the person had not died leaving the child or children, in which case a pension or pensions shall not be payable under this Act in respect of the child or children; or
- (b) pay a pension or pensions in respect of the child or children as if this section had not been enacted,

whichever the Board considers to be in the best interests of the child or children.

Liability, etc., of employers of persons preserving benefit.

52J. (1) Where a pension becomes payable under this Division to a person referred to in section 52A (1) or as a consequence of the death of a person referred to in section 52A (1) who has not received a benefit under this Division, there shall be paid from the Fund to the employer in whose service the person was employed at the date of the person's retrenchment, resignation, dismissal or discharge—

- (a) the amount which would have been payable to the person if, upon that retrenchment, resignation, dismissal or discharge, the person had elected under section 38B to take the benefit of section 38A; and
- (b) if that pension becomes payable more than 3 months after the retrenchment, resignation, dismissal or discharge, interest on the amount referred to in paragraph (a) in respect of the period commencing on the retrenchment, resignation, dismissal or discharge and ending on the date of payment, compounded on 30th June in each year and at the prescribed rate for the purposes of section 38A.

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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PRESERVATION OF BENEFITS—*continued.*

(2) Where a pension becomes payable under this Division to a person referred to in section 52A (1) or as a consequence of the death of a person referred to in section 52A (1), whether or not that person has received a benefit under this Division, the employer in whose service the person was employed at the date of the person's retrenchment, resignation, dismissal or discharge shall, in accordance with directions given by the Board, pay to the Fund the full amount of the pension.

(3) Any other section of this Act requiring a contribution or other payment to be made by an employer does not apply in relation to a pension to which this section applies, but otherwise an amount payable by an employer under this section is additional to any contribution or other payment that the employer is required to make under any other provision of this Act.

(4) A reference in this Act—

- (a) to the employer in whose service a contributor was employed at the date of the contributor's death includes a reference to the employer in whose service a person referred to in section 52A (1) who has died and who has not received a benefit under this Division was employed at the date of the person's retrenchment, resignation, dismissal or discharge; and
- (b) to the employer in whose service a pensioner was employed at the date of the pensioner's retirement includes a reference to the employer in whose service a person referred to in section 52A (1) who has become entitled to a pension under this Division was employed at the date of the person's retrenchment, resignation, dismissal or discharge.

Return to service of persons receiving benefit.

52K. (1) Where a person referred to in section 52A (1) who has not received a benefit under this Division becomes a contributor, no such benefit shall be payable to the contributor but an amount representing the contributions previously paid by the contributor

*Superannuation (Amendment) 1985*SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PRESERVATION OF BENEFITS—*continued.*

shall be allocated towards the purchase of the number of fully paid up units calculated in accordance with the following formula:—

$$\text{PUU} = \text{TU} + \text{IU} + \text{UC}$$

where—

PUU is the number of units purchased;

TU is the highest whole number calculated in relation to the contributor, pursuant to section 52A (2), in accordance with the formula $\text{UHn} - \frac{\text{Cn}}{\text{Rn}}$ (except where $\frac{\text{Cn}}{\text{Rn}}$ exceeds UHn);

IU is the highest whole number calculated in relation to the contributor, pursuant to section 52A (2), in accordance with the formula $\frac{\text{TCB}}{\text{RB}}$;

UC is the number attributed to that symbol in relation to the contributor, pursuant to section 52A (2).

(2) Where fully paid up units are credited under subsection (1) to a person who had previously ceased to be an employee and elected under section 38B to take the benefit of this Division, no person has any rights in the Fund—

- (a) arising from that election;
- (b) in respect of the employee-contributed pension component, or employer-financed pension component, calculated in relation to the person as at the day the person ceased to be an employee; or
- (c) except as provided by this section, in respect of contributions previously paid by the person.

(3) Where fully paid up units are credited to a person under this section on the person's becoming a contributor—

- (a) the amount allocated towards the purchase of those units shall be deemed to be contributions paid by the person in respect of those units;

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(b) the person shall, on and from the day the person became a contributor, be deemed to be a contributor for the number of units purchased but shall not be required to make further contributions in respect of those units; and

(c) the employer in whose service the person is employed will not be required to make, before the retirement of the person, any further contribution in respect of those units of pension.

(4) Nothing in this section shall be construed as derogating from the application of section 10B to an employee to whom this section applies.

(5) Where a person to whom fully paid up units are credited under subsection (1) dies, retires under section 21 (1B) before attaining the age of 60 years, or is retired under section 22 before attaining that age, the Board may, except where the amount allocated under subsection (1) is refunded pursuant to section 32A or 32B, determine that a specified amount, being part of the amount so allocated, be refunded to the person or, where the person is dead, to the person's personal representatives, and may act in accordance with its determination.

(6) The regulations may make provision for refunding or crediting to a person to whom this section applies an amount in respect of contributions previously paid by the person and not allocated towards the purchase of fully paid up units under this section.

SCHEDULE 4.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO EMPLOYEES'
CONTRIBUTIONS.

(1) Section 10J (2)—

At the end of section 10J, insert:—

(2) In this Part, a reference—

(a) to the number of units of pension for which the annual cost

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is equal to a particular amount includes a reference to the largest number of units of pension for which the annual cost is less than that amount; and

- (b) to the annual cost to a person for a unit of pension—
- (i) where the contributions in respect of the unit are required to be made by the person in accordance with the tables of contributions fixed by or under this Act—is a reference to an amount equal to 13 of those contributions or, after the commencement of Schedule 9 to the Superannuation (Amendment) Act, 1983, 26 of those contributions; or
 - (ii) where contributions in respect of the unit are required to be made by the person by instalments under section 10AH—is a reference to an amount equal to 13 of those instalments or, after the commencement of Schedule 9 to the Superannuation (Amendment) Act, 1983, 26 of those instalments.

(2) Section 10P (2A), (3)—

Omit section 10P (3), insert instead:—

(2A) On an employee's entry review day, if the number of units of pension that, pursuant to section 12 (1), is appropriate for the salary actually being paid to the employee is in excess of the number for which the annual cost to the contributor is equal to an amount representing 6 per cent of the annual salary of the employee at the rate actually being paid, the excess units of pension are optional units of pension.

(3) An employee may, within 2 months after the employee's entry review day, elect to abandon any 1 or more of the optional units of pension in respect of which, but for the election, the employee would be required by this section to commence contributing to the Fund.

(3) Section 10Q (1A), (2)—

Omit section 10Q (2), insert instead:—

(1A) On a contributor's annual review day in any half-year—

- (a) if the annual cost to the contributor for the units of pension for which contributions are payable by the contributor is not

*Superannuation (Amendment) 1985*SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO EMPLOYEES' CONTRIBUTIONS—*continued.*

less than an amount representing 6 per cent of the annual salary of the contributor at the rate actually being paid—the additional units of pension referred to in subsection (1) are optional units of pension; and

(b) if—

(i) the annual cost to the contributor for the units of pension for which contributions are payable by the contributor is less than an amount representing 6 per cent of the annual salary of the contributor at the rate actually being paid; and

(ii) the number of additional units of pension referred to in subsection (1) is in excess of the number for which the annual cost to the contributor is equal to the shortfall under subparagraph (i).

the excess additional units of pension are optional units of pension.

(2) A contributor may, within 2 months after the contributor's annual review day in any half-year, elect to abandon any 1 or more of the optional units of pension in respect of which, but for the election, the contributor would be required by this section to commence contributing to the Fund.

(4) Sections 10QA, 10QB—

After section 10Q, insert:—

Abandoned units to be taken up if contributions fall below 6 per cent of salary.

10QA. (1) On the annual review day of a contributor who has attained the maturity age, if the contributor has abandoned units and the annual cost to the contributor for the units of pension for which contributions are payable by the contributor is less than an amount representing 6 per cent of the annual salary of the contributor at the rate actually being paid—

(a) where there are no additional units of pension as referred to in section 10Q (1), the contributor shall take up the lesser of

*Superannuation (Amendment) 1985*SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO EMPLOYEES' CONTRIBUTIONS—*continued.*

all of the abandoned units and the number of abandoned units for which the annual cost is equal to the shortfall; or

- (b) where there are additional units of pension as so referred to but the annual cost to the contributor for the additional units is less than the shortfall, the contributor shall take up the lesser of all of the abandoned units and the number of abandoned units for which the annual cost is equal to the balance of the shortfall.

(2) Where, under this section, a contributor is required to take up an abandoned unit which the contributor had on the contributor's annual review day in any half-year—

- (a) the contributor shall commence to contribute for the unit as from the contributor's annual adjustment day in that half-year; and
- (b) the unit ceases to be an abandoned unit as from the annual adjustment day.

Special provisions applicable to certain contributors.

10QB. (1) This section applies to a contributor on the annual review day of the contributor if—

- (a) the contributor's entry payment day was before the commencement of Schedule 4 to the Superannuation (Amendment) Act, 1985;
- (b) the contributor has any abandoned units; and
- (c) the number of units of pension for which contributions are payable by the contributor on the annual review day is less than the number for which the annual cost is equal to an amount representing 6 per cent of the annual salary of the contributor at the rate actually being paid on the next preceding annual review day of the contributor or, if there was no such day, the contributor's entry review day.

(2) On an annual review day on which this section applies to a contributor, if—

- (a) the annual cost to the contributor for the units of pension for which contributions are payable by the contributor is less

*Superannuation (Amendment) 1985*SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO EMPLOYEES' CONTRIBUTIONS—*continued.*

than an amount representing 5 per cent of the annual salary of the contributor at the rate actually being paid; and

- (b) the number of additional units of pension referred to in section 10Q (1) is in excess of the number for which the annual cost to the contributor is equal to an amount representing 1 per cent of the annual salary of the contributor at the rate actually being paid,

the excess additional units of pension under this subsection are optional units of pension for the purposes of section 10Q, notwithstanding anything to the contrary in section 10Q (1A).

(3) On an annual review day on which this section applies to a contributor, if the annual cost to the contributor for the units of pension for which contributions are payable by the contributor is less than an amount representing 5 per cent of the annual salary of the contributor at the rate actually being paid—

- (a) where there are no additional units of pension as referred to in section 10Q (1), the contributor shall take up the lesser of all of the abandoned units and the number of abandoned units for which the annual cost is equal to—
 - (i) except as provided by subparagraph (ii), the shortfall; or
 - (ii) where the shortfall is greater than an amount representing 1 per cent of the annual salary of the contributor at the rate actually being paid, that amount; or
- (b) where there are additional units of pension as so referred to but the annual cost to the contributor for the additional units is less than the shortfall, the contributor shall take up the lesser of all of the abandoned units and the number of abandoned units for which the annual cost is equal to—
 - (i) except as provided by subparagraph (ii), the balance of the shortfall; or
 - (ii) where the balance of the shortfall is greater than an amount representing 1 per cent of the annual salary

*Superannuation (Amendment) 1985*SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO EMPLOYEES' CONTRIBUTIONS—*continued.*

of the contributor at the rate actually being paid, that amount.

(4) Notwithstanding anything to the contrary in section 10QA, that section does not apply in respect of a contributor on an annual review day on which subsection (3) applies to the contributor.

(5) Where, under this section, a contributor is required to take up an abandoned unit which the contributor had on the contributor's annual review day in any half-year—

- (a) the contributor shall commence to contribute for the unit as from the contributor's annual adjustment day in that half-year; and
- (b) the unit ceases to be an abandoned unit as from that annual adjustment day.

(5) Section 10R (1A), (2)—

Omit section 10R (2), insert instead:—

(1A) On a contributor's exit day—

(a) if the annual cost to the contributor for the units of pension for which contributions are payable by the contributor is not less than an amount representing 6 per cent of the annual salary of the contributor at the rate actually being paid—the additional units of pension referred to in subsection (1) are optional units of pension; and

(b) if—

(i) the annual cost to the contributor for the units of pension for which contributions are payable by the contributor is less than an amount representing 6 per cent of the annual salary of the contributor at the rate actually being paid; and

(ii) the number of additional units of pension referred to in subsection (1) is in excess of the number for which the annual cost is equal to the shortfall under subparagraph (i),

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SCHEDULE 4—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO EMPLOYEES'
CONTRIBUTIONS—*continued.*

the excess additional units of pension are optional units of pension.

(2) A contributor may, within 1 month after the contributor's exit day, elect to abandon any 1 or more of the optional units of pension in respect of which, but for the election, the contributor would be required by this section to make a contribution to the Fund.

(6) Section 10AE—

Omit "paid", insert instead "payable in respect of those units".

(7) (a) Section 12CA (1)—

Omit ", when he".

(b) Section 12CA (1)—

Omit "is contributing for one or more other units in accordance with that section, contributions shall continue to be made at the rate at which he was contributing for the firstmentioned unit", insert instead "or, pursuant to section 10AE, contributions cease to be payable in respect of a unit of pension by a contributor who attains the maturity age, contributions shall continue to be made at the rate at which the contributor was contributing for that unit".

(c) Section 12CA (2)—

Omit "the other unit or units referred to in subsection (1)", insert instead "units of pension in respect of which the contributor is contributing or may, on the contributor's next annual adjustment day or exit day, be required to contribute by instalments under section 10AH".

(d) Section 12CA (4)—

Omit "firstmentioned".

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SCHEDULE 5.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO ABANDONED UNITS
AND REDUCED VALUE UNITS.

(1) Section 10AA (2)—

Omit “(other than pension payable under section 37)”, insert instead
“payable under section 29 or by virtue of the death of a contributor”.

(2) (a) Section 47C (1)—

Omit “has attained the age of 47 years at or before his exit day
and”.

(b) Section 47C (1)—

Omit “, to a maximum number (disregarding any fraction)
equal to one-half of the contributory units held by him at that
day”.

(c) Section 47C (6)—

Omit “after he attained the age of 47 years, or 13th January,
1977, whichever is the later,”.

(d) Section 47C (6)—

Omit “to a maximum number (disregarding any fraction) equal
to one-half of the contributory units held by him at that time,”.

SCHEDULE 6.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO
LEAVE WITHOUT PAY.

(1) Part III, Division 3, heading—

After “*Salary*”, insert “*or Unit Entitlement*”.

(2) Section 10w (2) (b) (vi)—

Omit “was reduced under this section”, insert instead “was last
reduced under this section or section 10wB”.

(3) Section 10wB—

After section 10wA, insert:—

*Superannuation (Amendment) 1985*SCHEDULE 6—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO LEAVE WITHOUT
PAY—*continued.***Decrease in unit entitlement upon taking leave of absence.**

10WB. (1) Where, on the commencement, or extension, by a contributor of a period of leave of absence, the number of units of pension (if any) for which the contributor has completed contributing and the number of units of pension (if any) for which, but for this section, contributions would be payable by the contributor is greater than the number of units of pension that, pursuant to section 12 (1), is appropriate to the salary actually being paid to the contributor, the contributor shall cease to contribute for the number of units of pension equal to the difference.

(2) On the termination of a period of leave of absence by a contributor in respect of which section 12B (1) applies before the expiration of the period—

- (a) the contributor shall be deemed not to have ceased to contribute for the number of units of pension for which the contributor ceased to contribute under subsection (1) but shall be deemed to have ceased to contribute for the number of units of pension (if any) equal to the difference between—
 - (i) the number of units of pension (if any) for which the contributor has completed contributing and the number of units (if any) for which, but for the application of subsection (1) on the commencement of the period and of this subsection on the termination, contributions would be payable by the contributor; and
 - (ii) the number of units of pension that, pursuant to section 12 (1), is appropriate to the salary actually being paid to the contributor;
- (b) all contributions for units of pension which would have been payable, had the contributor ceased to contribute for the number of units of pension equal to the difference on the commencement of the period, shall be deemed to have been payable by the contributor; and
- (c) any contributions for units of pension which have been refunded or applied in accordance with a direction by the

*Superannuation (Amendment) 1985*SCHEDULE 6—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO LEAVE WITHOUT
PAY—*continued.*

contributor as referred to in subsection (3) and which are payable as referred to in paragraph (b) shall be payable in respect of those units.

(3) Where a contributor taking leave of absence or extending a period of leave of absence ceases to contribute for a unit of pension under this section, the contributor's contributions to the Fund in respect of the unit shall cease, on and from the first day of the contribution period in which the leave commences or is extended, and any contributions paid in respect of that unit shall, unless the contributor directs the Board to apply them towards contributions payable in respect of other units of pension during the period of leave, be refunded to the contributor.

(4) No person has any rights in the Fund in respect of a unit of pension for which contributions have ceased under this section and have not again become payable.

(5) Where a contributor ceases to contribute for a unit of pension under this section and subsequently the salary of the contributor is increased, this Act applies in relation to the increase as if the contributor had not been formerly entitled to the unit.

(4) Sections 12A, 12B—

After section 12, insert:—

Alteration of unit entitlement in certain cases.

12A. (1) Except as provided by subsection (2), a reference (however expressed) in any other provision of this Act to the number of units of pension that, pursuant to section 12 (1), is appropriate to the salary being paid to a contributor on any particular day shall, if 1 or more deduction factors are required to be applied under this section by the Board in relation to the contributor on that day, be construed as a reference to the number of units calculated in accordance with the following formula:—

$$U = NU \times \frac{PFS - DT}{PFS}$$

where—

U is the number of units to be calculated;

*Superannuation (Amendment) 1985*SCHEDULE 6—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO LEAVE WITHOUT
PAY—*continued.*

NU is the number of units that, but for this section, would be appropriate to that salary;

PFS is the sum of—

(a) the number of years, if any, (including any fractional part of a year calculated on a daily basis) of the period that commenced when the contributor last became a contributor and ended on that day (but excluding any part of that period during which the person had been on leave of absence pursuant to section 48); and

(b) the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which that day precedes—

(i) the date on which the person attains the maturity age; or

(ii) where any employment which, on that day, the contributor is entitled to count as service for the purposes of section 21 is, in total, for less than a period of 10 years—the expiration of the balance of that period of 10 years,

whichever is the later;

DT is the total of all deduction factors required to be applied by the Board in relation to the contributor on that day.

(2) Where the number of units of pension calculated in accordance with the formula specified in subsection (1) is or includes a fraction of a unit—

(a) if the fraction is less than one-half—the fraction shall be disregarded; or

(b) if the fraction is not less than one-half—the fraction shall be deemed to be a whole unit.

Deduction factors in relation to certain periods of leave of absence.

12B. (1) Except as provided by subsection (2), on and from the commencement of a period of leave of absence without pay by a

Superannuation (Amendment) 1985

SCHEDULE 6—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO LEAVE WITHOUT
PAY—*continued.*

contributor, the Board shall apply under section 12A, in relation to the contributor, in addition to such other deduction factors (if any) as the Board is required to apply in relation to the contributor, a deduction factor equal to the length of so much of that period as exceeds 3 months (expressed in terms of years, if any, and including any fractional part of a year calculated on a daily basis).

(2) Subsection (1) does not apply in relation to a period of leave of absence by a contributor where—

- (a) the leave is a prescribed form of leave or is leave with respect to which section 19 (2), (3) or (6) applies;
- (b) the period commences before the commencement of Schedule 6 to the Superannuation (Amendment) Act, 1985, or is not more than 3 months; or
- (c) before the commencement of that period, the contributor elects to have subsection (1) not apply in relation to that period.

(3) Where a period of leave of absence to which subsection (1) applies terminates (whether by reason of death of the contributor or otherwise), on or before the expiration of 3 months of the period, the Board shall, on and from that termination, cease to apply under section 12A in relation to the contributor the deduction factor required under subsection (1) to be applied on and from the commencement of that period.

(4) Where a period of leave of absence to which subsection (1) applies terminates (whether by reason of death of the contributor or otherwise) before the expiration of the whole, but after the expiration of 3 months, of the period or a period of leave of absence is extended after the commencement of the period and the period, as extended, is a period of leave of absence to which subsection (1) applies, the Board shall, on and from that termination or extension, apply under section 12A in relation to the contributor—

- (a) instead of the deduction factor (if any) required under subsection (1) to be applied on and from the commencement of that period; and

Superannuation (Amendment) 1985

SCHEDULE 6—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO LEAVE WITHOUT
PAY—*continued.*

- (b) in addition to such other deduction factors (if any) as the Board is required to apply in relation to the contributor, a deduction factor equal to the length of so much of the period of leave actually taken or the length of so much of the period of leave, as extended, as exceeds 3 months (expressed in terms of years, if any, and including any fractional part of a year calculated on a daily basis).
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SCHEDULE 7.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO
PART-TIME EMPLOYMENT.

- (1) (a) Section 3 (1), definition of “Employee”—
After “employment” where secondly occurring, insert “or who is a part-time employee”.
- (b) Section 3 (1), definition of “Part-time employee”—
After the definition of “Maturity age”, insert:—
“Part-time employee” means a person of a class prescribed by, or determined in accordance with, the regulations.
- (2) Section 10w (2) (b) (vi) (as amended by Schedule 6 (2))—
After “or section 10wb”, insert “or 10wc”.
- (3) Section 10wc—
Before Division 4 of Part III, insert:—

*Superannuation (Amendment) 1985*SCHEDULE 7—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PART-TIME
EMPLOYMENT—*continued.***Commencement of part-time employment, etc.**

10wc. (1) In this section, a reference to a change in the employment status of a contributor is a reference—

- (a) to a contributor who is not a part-time employee becoming a part-time employee; and
- (b) to a contributor who is employed in a position as a part-time employee becoming employed in another position as a part-time employee, if the salary ratio (as defined in section 12c (1)) in relation to the former position is more than that in relation to the other position.

(2) On a change in the employment status of a contributor, the contributor shall cease to be a contributor for the units of pension in respect of which contributions were payable by the contributor, or for which the contributor had completed contributing, before that change (other than any reserve units in respect of which contributions are payable under section 15A).

(3) No person has any rights in the Fund in respect of units of pension for which a person has ceased to be a contributor pursuant to subsection (2).

(4) Where a contributor whose employment status changes ceases to be a contributor for units of pension pursuant to subsection (2), the contributor's contributions to the Fund in respect of those units of pension shall cease, as on and from the first day of the contribution period in which the change occurred.

(5) Any contributions paid in respect of units of pension for which a person has ceased to be a contributor on a change in employment status shall be allocated towards the purchase of the number of fully paid up units calculated in accordance with the following formula:—

$$PUU = TU + IU + UC$$

where—

PUU is the number of units purchased;

TU is the highest whole number obtained from the calculation of the formula $UHn - \frac{Cn}{Rn}$ (except where $\frac{Cn}{Rn}$ exceeds UHn);

*Superannuation (Amendment) 1985*SCHEDULE 7—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PART-TIME
EMPLOYMENT—*continued.*

UHn is the number of units of pension for which contributions were payable by the contributor immediately before the change occurred in accordance with the tables of contributions fixed by or under this Act, but excluding—

- (a) any such units of pension which are excess units of pension referred to in section 10w (1) and in respect of which no person has any rights in the Fund; and
- (b) any such units of pension, being reserve units, for which contributions were being made under section 15A;

Cn is the amount of contributions due, for the contribution period preceding that in which the change occurred, in respect of that number of units of pension;

Rn is the relevant amount under subsection (6) in relation to the contributor for an additional unit of pension;

IU is the highest whole number obtained from the calculation of the formula $\frac{TCB}{RB}$,

TCB is the total amount paid in respect of instalments payable by the person on or before the time the change occurred for units of pension for which the contributor contributed in accordance with Division 6 (but deducting therefrom any part of that amount allocated under this Act to the purchase of fully paid up units);

RB is the amount specified in section 10AG (1) as the cost of a unit of pension in relation to the contributor;

UC is the number of units (if any) purchased by the person and credited to the person as fully paid up units under this section, section 20C, or otherwise.

(6) For the purposes of subsection (5), the relevant amount in relation to a contributor whose employment status changes for an additional unit of pension is—

*Superannuation (Amendment) 1985*SCHEDULE 7—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PART-TIME
EMPLOYMENT—*continued.*

- (a) where the contributor has attained the prescribed age on or before the last day of the contribution period preceding that in which the change occurred, the amount which, if the contributor were required under Division 5 to commence to contribute for an additional unit of pension on that day, would be the amount payable in accordance with the tables of contributions fixed under section 10AD for that unit for a contribution period; or
- (b) where the contributor has not attained the prescribed age on or before that day, the amount equal to the sum of—
- (i) the amount payable by the contributor for any additional unit of pension for which the contributor had been required to commence contributing on and from the contributor's last annual adjustment day before the change occurred for a contribution period or, as the case may be, the amount that would have been so payable if the contributor had been so required; and
 - (ii) for each day of the period commencing on the day following that annual adjustment day and ending on the last day of the contribution period preceding that in which the change occurred, the amount equal to $\frac{1}{364}$ th part of the difference between the amount referred to in subparagraph (i) and the amount which that amount would have been if, on the last annual review day of the contributor before the change occurred, the contributor had been 1 year older than the age actually attained.
- (7) Where, in relation to a contributor whose employment status has changed, the figure obtained pursuant to subsection (5) from the calculation of the formula $UH_n - \frac{C_n}{R_n}$ is or includes a fraction, there shall be paid to the contributor from the Fund, as a refund of contributions not allocated towards the purchase of fully paid up

*Superannuation (Amendment) 1985*SCHEDULE 7—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PART-TIME
EMPLOYMENT—*continued.*

units, the amount calculated in accordance with the following formula:—

$$Q1 = S \times \frac{F1}{P1}$$

where—

Q1 is the amount to be paid;

S is the amount of the contributions paid by the contributor in respect of the units the number of which is attributed to the symbol UHn pursuant to subsection (5);

F1 is the fraction which is or is included in the figure obtained;

P1 is the figure obtained.

(8) Where, in relation to a contributor whose employment status has changed, the figure obtained pursuant to subsection (5) from the calculation of the formula $\frac{TCB}{RB}$ is or includes a fraction, there shall be paid to the contributor from the Fund, as a refund of instalments not allocated towards the purchase of fully paid up units, the amount calculated in accordance with the following formula:—

$$Q2 = TCB \times \frac{F2}{P2}$$

where—

Q2 is the amount to be paid;

TCB is the amount attributed to that symbol pursuant to subsection (5);

F2 is the fraction which is or is included in the figure obtained;

P2 is the figure obtained.

(9) Where a person's contributions are allocated to the purchase of paid up units under this section on a change in employment status—

(a) the person shall, on and from that change occurring, be deemed to be a contributor for the number of units

*Superannuation (Amendment) 1985*SCHEDULE 7—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PART-TIME
EMPLOYMENT—*continued.*

purchased and to have contributed for those units for a period of 2 years and 6 months but shall not be required to make further contributions in respect of those units; and

(b) the employer in whose service the person is employed will not be required to make, before the retirement of the person, any further contribution in respect of those units of pension.

(10) Subject to this or any other Act, where the number of units of pension that, pursuant to section 12 (1), is appropriate for the salary actually being paid to a contributor on the day the employment status of the contributor changes is higher than the number of fully paid up units credited to the contributor under this section, the contributor shall, as on and from the first day of the contribution period in which the change occurs, contribute to the Fund in respect of the additional number of units of pension in accordance with this Act.

(11) On the day on which the employment status of a contributor changes, if the number of additional units of pension referred to in subsection (10) is in excess of the number for which the annual cost to the contributor is equal to an amount representing 6 per cent of the annual salary of the contributor at the rate actually being paid, the excess units of pension are optional units of pension.

(12) A contributor may, within 2 months after the day on which the employment status of the contributor changes, elect to abandon any one or more of the optional units of pension in respect of which, but for the election, the contributor would be required by this section to commence contributing to the Fund.

(13) Where a contributor elects not to contribute for a unit of pension under subsection (12), contributions to the Fund in respect of the unit shall cease as on and from the first day of the contribution period in which the employment status of the contributor changes and any contributions paid in respect of the unit shall be refunded to the contributor.

(14) No person has any rights in the Fund in respect of a unit of pension to which an election under subsection (12) relates.

Superannuation (Amendment) 1985

SCHEDULE 7—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PART-TIME
EMPLOYMENT—*continued.*

(15) Where no person has any rights in the Fund in respect of an excess unit of pension of a contributor referred to in section 10w (1) and the employment status of the contributor changes, any contributions made by the contributor in respect of the unit shall be refunded to the contributor.

(16) Where a person whose contributions are allocated to the purchase of fully paid up units under this section dies, retires under section 21 (1B) before attaining the age of 60 years, or is retired under section 22 before attaining that age, the Board may, except where the contributions are refunded pursuant to section 32A or 32B, determine that a specified amount, being part of those contributions, be refunded to the person or, where the person is dead, to the person's personal representatives, and may act in accordance with its determination.

(17) Where a contributor whose employment status changes is a contributor whose entry payment day occurred before the commencement of Schedule 4 to the Superannuation (Amendment) Act, 1985, and, immediately before the change occurred—

- (a) the contributor had any abandoned units; and
- (b) the annual cost to the contributor for the units of pension for which contributions were payable by the contributor was an amount representing a percentage which was less than 6 per cent of the annual salary of the contributor at the rate actually being paid on the contributor's previous annual review day or, if there was no such day, the contributor's entry review day, the number of those units being less than the number for which the annual cost was equal to an amount representing 6 per cent of that annual salary,

such of the additional units of pension (if any) referred to in subsection (10) as are in excess of the number for which the annual cost to the contributor is equal to an amount representing that lesser percentage of the annual salary at the rate actually being paid to the contributor on the day the change occurred are optional units of pension for the purposes of subsection (12), notwithstanding anything to the contrary in subsection (11).

*Superannuation (Amendment) 1985*SCHEDULE 7—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PART-TIME
EMPLOYMENT—*continued.*

(4) Section 12C—

Before section 12CA, insert:—

Deduction factors in relation to part-time employment.

12C. (1) In this section, a reference to the salary ratio in relation to a position in which a person is employed as a part-time employee is a reference to the ratio of the salary of the person as a part-time employee to the salary certified by the employer of the person to be the salary which would be paid to the person if employed full-time in that position.

(2) Where a contributor who is not a part-time employee becomes employed in a position as a part-time employee or a contributor who is a part-time employee becomes employed as part-time employee in a position in relation to which the salary ratio is different from that of the former position, the Board shall, on and from the day on which the contributor becomes so employed, apply under section 12A, in relation to the contributor, in addition to such other deduction factors (if any) as the Board is required to apply in relation to the contributor, a deduction factor equal to the figure calculated in accordance with the following formula:—

$$D = PA \times (1 - SR)$$

where—

D is the deduction factor;

PA is the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which the day precedes—

(a) the date on which the contributor attains the maturity age; or

(b) where any employment which, on that day, the contributor is entitled to count as service for the purposes of section 21 is, in total, for less than a period of 10 years—the expiration of the balance of that period of 10 years,

whichever is the later;

*Superannuation (Amendment) 1985*SCHEDULE 7—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO PART-TIME
EMPLOYMENT—*continued.*

SR is the salary ratio (expressed as a fraction) in relation to the position.

(3) Where a contributor who is employed in a position as a part-time employee ceases to be employed as a part-time employee or becomes employed in another position in relation to which the salary ratio is different from that of the former position, the Board shall, on and from the day on which the contributor becomes employed in the other position, apply under section 12A in relation to the contributor—

- (a) instead of the deduction factor required under subsection (2) to be applied on and from the day on which the contributor became employed in a position having the salary ratio of the former position; and
- (b) in addition to such other deduction factors (if any) as the Board is required to apply in relation to the contributor,

a deduction factor equal to the figure which would have been calculated in accordance with subsection (2) if the figure attributed to the symbol PA were the number of years, if any, (including any fractional part of a year calculated on a daily basis) of the period during which the contributor was employed in a position having the salary ratio of the former position.

SCHEDULE 8.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO CHILDREN'S
BENEFITS.

(1) Sections 32D (1), 33, 43 (3), 43A (4)—

Omit "per week" wherever occurring, insert instead "per fortnight".

(2) (a) Section 61M (2)—

Omit the subsection, insert instead:—

(2) Subject to this Division, the appropriate amount of pension under this section is, as from the commencement of

Superannuation (Amendment) 1985

SCHEDULE 8—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO CHILDREN'S
BENEFITS—*continued.*

Schedule 8 (2) to the Superannuation (Amendment) Act, 1985,
increased to \$41.20 per fortnight.

(b) Section 61M (3)—

Omit "a year subsequent to that referred to in subsection (2)",
insert instead "the year ending on and including 30th June,
1985, or for any subsequent year".

(3) (a) Section 61N (2)—

Omit the subsection, insert instead:—

(2) Subject to this Division, the appropriate amount of
pension under this section is, as from the commencement of
Schedule 8 (3) to the Superannuation (Amendment) Act, 1985,
increased to \$97.85 per fortnight.

(b) Section 61N (3)—

Omit "a year subsequent to that referred to in subsection (2)",
insert instead "the year ending on and including 30th June,
1985, or for any subsequent year".

SCHEDULE 9.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO SPOUSES' BENEFITS.

(1) (a) Section 3 (1), definitions of "Widow", "Widower"—

After the definition of "The Fund", insert:—

"Widow", in relation to a deceased man, means a woman
who, at the time of the man's death—

(a) was married to the man; or

(b) if the man died after the commencement of
Schedule 9 (1) to the Superannuation

*Superannuation (Amendment) 1985*SCHEDULE 9—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO SPOUSES'
BENEFITS—*continued.*

(Amendment) Act, 1985, was the de facto wife of the man (within the meaning of subsection (11A)).

“Widower”, in relation to a deceased woman, means a man who, at the time of the woman’s death—

- (a) was married to the woman; or
- (b) if the woman died after the commencement of Schedule 9 (1) to the Superannuation (Amendment) Act, 1985, was the de facto husband of the woman (within the meaning of subsection (11B)).

(b) Section 3 (11A), (11B), (11C)—

After section 3 (11), insert:—

(11A) A reference in this Act to a woman being the de facto wife of a man at any particular time is a reference to a woman who, at that time, was living with the man as his wife on a bona fide domestic basis although not married to him and who—

- (a) had so lived with the man continuously for the period of at least 3 years preceding that time;
- (b) had so lived with the man continuously for the period of at least 12 months preceding that time and fulfils such requirements relating to financial dependency as are prescribed; or
- (c) at that time, is the mother of a child of the man or is pregnant, carrying a child of the man.

(11B) A reference in this Act to a man being the de facto husband of a woman at any particular time is a reference to a man who, at that time, was living with the woman as her husband on a bona fide domestic basis although not married to her and who—

- (a) had so lived with the woman continuously for the period of at least 3 years preceding that time;

*Superannuation (Amendment) 1985*SCHEDULE 9—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO SPOUSES' BENEFITS—*continued.*

- (b) had so lived with the woman continuously for the period of at least 12 months preceding that time and fulfils such requirements relating to financial dependency as are prescribed; or
- (c) at that time, is the father of a child of the woman.

(11C) A reference in this Act to a deceased person having been married at any particular time includes, if the person died after the commencement of Schedule 9 (1) to the Superannuation (Amendment) Act, 1985, a reference to the person having had a de facto wife or de facto husband at that time.

(2) Section 17CA (4)—

After section 17CA (3), insert:—

(4) Where an employer becomes liable under this section to make payments to the Fund in respect of a pension payable under this Act consequent on the death of a woman contributor, there shall be payable to the employer from the Fund an amount equal to the amount which would have been payable to the deceased contributor if she had resigned, immediately before her death, and elected under section 38B to take the benefit of section 38A.

(3) Section 30AA—

Omit the section.

(4) Section 31B (1)—

After “widower”, insert “by reason of the death of a contributor or pensioner before the commencement of Schedule 9 (4) to the Superannuation (Amendment) Act, 1985”.

(5) (a) Section 32A (1), (1A)—

Omit the subsections, insert instead:—

(1) Where an employee dies before retirement without leaving a widow or widower in respect of whom pension is payable under this Act, the employee shall, unless the employee

*Superannuation (Amendment) 1985*SCHEDULE 9—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO SPOUSES'
BENEFITS—*continued.*

leaves a child or children in respect of whom pension is payable under this Act or would, but for this section, be so payable, be deemed to have resigned, immediately before dying, from the service of the employee's employer and to have elected under section 38B to take the benefit of section 38A.

(1A) The amount payable under section 38A by reason of the death of an employee in the circumstances referred to in subsection (1) shall be paid by the Board to the employee's personal representatives or, where the employee has no personal representatives, to such persons as the Board may determine.

(b) Section 32A (2)—

Omit "or (1A)" where firstly occurring.

(c) Section 32A (2) (a)—

Omit "(1) or".

(6) Section 32c—

Omit the section, insert instead:—

Refund in certain cases where widow or widower dies leaving children.

32c. Where—

- (a) an employee dies before retirement leaving a widow or widower;
- (b) the widow or widower dies; and
- (c) there are children of the employee or of the widow or widower in respect of whom pension becomes payable in accordance with section 33,

there shall be paid to the employee's personal representatives or, where the employee has no personal representatives, to such persons as the Board may determine a sum equal to the contributions paid by the employee to the Fund less—

- (d) the total amount of pension paid to the widow or widower under section 30 otherwise than in respect of a child; and

*Superannuation (Amendment) 1985*SCHEDULE 9—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO SPOUSES'
BENEFITS—*continued.*

(e) any lump sum paid to the widow or widower under section 21A, 21B or 21C in respect of such a pension.

(7) Section 46A (2)—

Omit the subsection.

(8) Section 46B—

After section 46A, insert:—

Competing claims for spouses' pensions, etc.

46B. (1) This section applies to a pension under this Act which is payable to the widow or widower of a deceased person.

(2) Where, but for this subsection, a pension to which this section applies would be payable to more than 1 person (because a deceased person has left more than 1 widow or widower)—

(a) the pension is payable in accordance with a determination made by the Board, and not otherwise; and

(b) the total amount of pension payable to those persons at any time shall not exceed the amount of a single pension.

(3) For the purpose of subsection (2) (a), the Board may determine in relation to a pension to which this section applies—

(a) that the pension is not payable to such of the persons concerned as it specifies; or

(b) that, subject to subsection (2) (b), the amount of the pension shall be apportioned between the persons concerned in such manner as it specifies.

(4) The Board may withhold the payment of any part of a pension to which this section applies by reason of the death of a person—

(a) until the expiration of the period of 30 days after the death of the person; or

(b) where application has been made for the pension by more than 1 person, until it is satisfied that only 1 of those persons

*Superannuation (Amendment) 1985*SCHEDULE 9—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO SPOUSES' BENEFITS—*continued.*

is entitled to the pension or until a determination is made in relation to the matter by the Board under this section.

(5) Where, after the expiration of 30 days following the death of a person, a pension to which this section applies is paid in respect of any period to the widow or widower of the deceased person, a pension to which this section applies is not payable to any other widow or widower of the deceased person in respect of that period.

(6) Where, after the expiration of 30 days following the death of a person, the whole or part of a pension to which this section applies is commuted by a widow or widower of the deceased person—

(a) where the whole of the pension is commuted—a pension to which this section applies is not payable to any other widow or widower of the deceased person; or

(b) where part of the pension is commuted—so much of a pension to which this section applies as is equal to the amount of the pension so commuted is not payable to any other widow or widower of the deceased person.

(7) For the purposes of subsections (5) and (6), an amount paid in good faith by the Board to a person purporting to be the widow or widower of a deceased person shall be deemed to have been paid to such a widow or widower.

(8) Where, after the expiration of 30 days following the death of a person, any amount is paid under this Act to the person's personal representatives or to such other persons as the Board may determine, any pension to which this section applies which is payable to the widow or widower of the deceased person shall be reduced, in the prescribed manner, by the amount so paid.

(9) For the purposes of subsection (8), the prescribed manner of reducing a benefit to which this section applies by a particular amount is—

(a) the manner prescribed by the regulations; or

(b) where no manner is prescribed by the regulations, such manner as the Board determines.

*Superannuation (Amendment) 1985*SCHEDULE 9—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO SPOUSES'
BENEFITS—*continued.*

(9) Section 47—

Omit the section, insert instead:—

No pension for widow, etc., if pensioner marries.

47. Pension shall not, upon the death of a pensioner, be payable to a person who is the widow or widower of the deceased or in respect of any children of the widow or widower who are not children of the pensioner unless—

(a) in the case of the widow or widower of a pensioner receiving a pension under section 29, the pensioner was married to the person—

(i) before becoming entitled to that pension; or

(ii) before the pensioner attained the maturity age and more than 3 years before the death of the pensioner;
or

(b) in any other case, the pensioner was married to the person before becoming entitled to a pension under this Act.

and unless the pensioner remained married to the person until the date of death.

SCHEDULE 10.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO INDEXATION OF UNIT
ENTITLEMENTS.

(1) Section 12 (1) (b)—

Omit the paragraph, insert instead:—

*Superannuation (Amendment) 1985*SCHEDULE 10—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO INDEXATION OF
UNIT ENTITLEMENTS—*continued.*

- (b) with respect to salaries exceeding \$5,200, the number of those units, on any particular day, shall be calculated in accordance with the following formula:—

$$UE = \frac{S}{260} + (9 \times CF)$$

where—

UE is the number of units of pension;

S is the annual rate of salary;

CF is 1 or $\frac{a}{114.6}$, whichever is the greater;

a is the index number appearing in the Consumer Price Index (All Groups Index) for Sydney last published before that day by the Commonwealth Statistician under the Census and Statistics Act 1905 of the Commonwealth.

- (2) Section 12 (2)—

At the end of section 12, insert:—

(2) Where the number of units of pension calculated in accordance with subsection (1) (b) includes a fraction of a unit, the number of units shall be deemed to be the next highest whole number.

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SCHEDULE 11.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO POWERS OF INVESTMENT.

(1) Sections 5-6—

Omit the sections.

(2) Section 6A—

Before section 7, insert:—

Investment of Fund.

6A. (1) In this section—

“public securities” means—

(a) bonds, debentures, stock or other securities issued by—

(i) the Commonwealth, this or any other State or a Territory of the Commonwealth; or

(ii) a municipal corporation, other local governing body or public authority constituted by or under an Act or by or under a law of the Commonwealth or of another State or of a Territory of the Commonwealth; or

(b) prescribed securities or other instruments.

(2) Subject to this section, the Board may, in such manner as it thinks fit, apply the Fund for the purpose of producing income and for related purposes including entering into such arrangements, and undertaking such obligations, as the Board thinks fit.

(3) Money in the Fund may, pending investment, be lodged at call, or partly at call and partly on fixed deposit, with the Treasurer or with any bank and shall, while so lodged with a bank, be deemed to be money of the Crown.

(4) The Board shall, so far as is practicable, ensure that at all times the assets of the Fund shall include public securities the cost of which, averaged over the period of 3 months that commences on the commencement of this section and over each succeeding period of 3 months, is not less than 30 per cent (or, if some other proportion is prescribed for the purposes of this subsection, that other proportion) of the cost of all the assets of the Fund.

*Superannuation (Amendment) 1985*SCHEDULE 11—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO POWERS OF INVESTMENT—*continued.*

(5) The Board shall, so far as is practicable, ensure that at no time do the assets of the Fund include any one asset (other than public securities) the cost of which was more than 5 per cent (or, if some other proportion is prescribed for the purposes of this subsection, that other proportion) of the cost of all the assets of the Fund.

(6) For the purposes of subsection (5) but without limiting its generality, all the assets acquired under subsection (2) that comprised—

(a) securities within the meaning of the Securities Industry (New South Wales) Code and other instruments, being securities or instruments allotted or issued by any one corporation, or by related corporations within the meaning of the Companies (New South Wales) Code; or

(b) an interest as beneficiary under any one trust,

shall be deemed to be one asset of the Fund.

(7) A transaction entered into by the Board is not invalidated by reason only that it is not authorised by, or may result in a contravention of, the provisions of this section.

(8) Annual reviews of the Board's broad investment policy and the management of its investments shall be conducted as prescribed.

(3) Section 81B—

After section 81A, insert:—

Member of Board or its staff may be director of company.

81B. (1) If the Board so approves, a person who holds office as a member of the Board, or as a member of the staff of the Board, may also hold office as a director of a company.

(2) Where property is vested in the Board and a company has been formed to manage the property (whether with or without other property), the Board may take such action as may be necessary to qualify it to nominate a person for appointment as a director of the company.

SCHEDULE 12.

(Sec. 5.)

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 2—

Omit the section.

(2) (a) Section 3 (5)—

After section 3 (4B), insert:—

(5) For the purposes of this Act, a person appointed by the Coal Industry Tribunal to be a Local Coal Authority in the State shall be deemed to be, while holding office as such an Authority, a person employed by the Joint Coal Board.

(b) Section 3 (13)—

After section 3 (12), insert:—

(13) Where, under this Act, any period is required to be expressed as a fractional part of a year, the period shall be expressed as a fractional part of 365.25 days.

(3) Section 10A, definition of "prescribed standard"—

Omit the definition, insert instead:—

"prescribed standard" means the standard for the time being determined by order of the Minister made for the purposes of this section on the recommendation of the Government Actuary and the Government Medical Officer.

(4) Section 21AA (6) (b)—

Omit "the Board is satisfied", insert instead "it is proved to the satisfaction of the Board".

(5) Section 50—

After "examination", insert "by the Government Medical Officer".

(6) Section 74 (1)—

Omit "a regulation made under", insert instead "the provisions of".

*Superannuation (Amendment) 1985*SCHEDULE 12—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) Section 74A—

Omit the section, insert instead:—

Disclosure of pecuniary interests.

74A. (1) A member of the Board who has a direct or indirect pecuniary interest—

- (a) in a matter that is being considered, or is about to be considered, at a meeting of the Board; or
- (b) in a thing being done or about to be done by the Board.

shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure by a member of the Board at a meeting of the Board that the member—

- (a) is a member, or is in the employment, of a specified company or other body;
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The Board shall cause particulars of any disclosure made under subsection (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Board from time to time.

(4) After a member of the Board has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subsection (1) or (2), the member shall not, unless the Minister otherwise determines—

- (a) be present during any deliberation of the Board, or take part in any decision of the Board, with respect to that matter; or

*Superannuation (Amendment) 1985*SCHEDULE 12—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) exercise or perform any powers, authorities, duties or functions under this Act with respect to that thing,

as the case may require.

(5) Notwithstanding that a member of the Board contravenes the provisions of this section, that contravention does not invalidate any decision of the Board or the exercise or performance of any power, authority, duty or function under this Act.

(6) Nothing in this section applies to or in respect of an interest of a member of the Board in a matter or thing which arises by reason only that the member is a contributor or a pensioner.

(7) A reference in this section to a meeting of the Board includes a reference to a meeting of a committee of the Board.

(8) Section 89A—

Omit “or death of any person”, insert instead “dependency or death of any person, or any other particular in relation to a person.”.

SCHEDULE 13.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT FOR TRANSITIONAL AND OTHER PURPOSES.

(1) Section 94A—

After section 94, insert:—

Transitional and other provisions arising from the Superannuation (Amendment) Act, 1985.

94A. Schedule XX has effect.

(2) Schedule XX—

After Schedule XIX, insert:—

*Superannuation (Amendment) 1985*SCHEDULE 13—*continued.*AMENDMENTS TO THE PRINCIPAL ACT FOR TRANSITIONAL AND OTHER PURPOSES—*continued.*

SCHEDULE XX.

(Sec. 94A.)

TRANSITIONAL AND OTHER PROVISIONS ARISING FROM THE SUPERANNUATION (AMENDMENT) ACT, 1985.

Certain references to Board's former investment powers.

1. A reference in any Act or statutory instrument, or in any other instrument, or in any contract or agreement, to section 5, 5A, 5B, 5C, 5D or 6 of this Act shall, on and after the commencement of Schedule 11 to the Superannuation (Amendment) Act, 1985, be read and construed as a reference to that section, as in force immediately before that commencement.

Effect of certain elections to commute pension.

2. Section 91 (5) does not apply to or in respect of an election under section 21C which is made before the expiration of 2 months after the commencement of Schedule 1 (4) to the Superannuation (Amendment) Act, 1985.

Repeal of sec. 30AA.

3. The repeal of section 30AA by the Superannuation (Amendment) Act, 1985, does not affect the operation of that section in respect of a woman contributor who died before that repeal.

Suspension on re-marriage lifted.

4. (1) A spouse's pension (within the meaning of section 46A) which, immediately before the commencement of Schedule 9 (7) to the Superannuation (Amendment) Act, 1985, was not payable by reason of the operation of section 46A (2), becomes payable on and from that commencement, but any such pension is not payable in respect of any period before that commencement.

(2) A reference in this Act to a person who becomes entitled to a pension at a particular time does not include a reference to a person to whom a pension becomes payable as referred to in subclause (1) at that time.

Adjustment of unit entitlement to have effect in relation to certain pensions.

5. (1) A pension payable under this Act on the commencement of Schedule 10 to the Superannuation (Amendment) Act, 1985, being a pension which became payable to a contributor who retired or was retrenched, or to the widow or widower of a contributor who died or who retired or was retrenched, after 1st July, 1982, shall, on that commencement, be increased to the amount which that pension would have been if—

- (a) each additional unit of pension that would have been appropriate for the salary of the contributor at any time had that Schedule commenced on 1st July, 1982, were an abandoned unit which the contributor had at that time; and
- (b) a reduced value unit were allocated in respect of each of those abandoned units.

Superannuation (Amendment) 1985

SCHEDULE 13—*continued.*AMENDMENTS TO THE PRINCIPAL ACT FOR TRANSITIONAL AND OTHER
PURPOSES—*continued.*

(2) Nothing in subclause (1) renders the increase in pensions referred to in that subclause payable in respect of any period before the commencement of Schedule 10 to the Superannuation (Amendment) Act, 1985.

Regulations.

6. (1) A regulation may be made containing provisions of a savings or transitional nature consequent on the enactment of the Superannuation (Amendment) Act, 1985.

(2) A provision made under subclause (1) may take effect as from the date of assent to the Superannuation (Amendment) Act, 1985, or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision of a regulation made under subclause (1) shall, if the regulation expressly so provides, have effect notwithstanding any provision of this Schedule other than this clause.
